IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WP(C).No. 31271 of 2006(W)

PETITIONER:

REV.FR.EMMAUEL VATTAKUZHY,
SUPERIOR, "SHANTHI SADAN", ASHRAM,
AVOLICHAL, NERIAMANGALAM P.O.,
ERNAKULAM DIST-686 693.

BY ADV. SRI.ALEXANDER THOMAS

RESPONDENTS:

1. STATE OF KERALA, REP. BY ITS
CHIEF SECRETARY TO GOVT. OF KERALA,
GOVT. SECRETARIAT BUILDINGS, THIRUVANANTHAPURAM-
695 001.

2. DISTRICT COLLECTOR,
COLLECTORATE BUILDINGS, CIVIL STATION,
ERNAKULAM.

3. ERNAKULAM DIST., EXPERT COMMITTEE
FOR PROTECTION OF RIVER BANKS, REP. BY ITS
EX-OFFICIO CHAIRMAN, DISTRICT COLLECTOR,
COLLECTORATE BUILDINGS, CIVIL STATION,
ERNAKULAM.

4. EXECUTIVE ENGINEER,
KERALA WATER AUTHORITY, MUVATTUPUZHA.

5. KAVALANGAD GRAMA PANCHAYAT,
REP. BY ITS SECRETARY, KAVALANGAD GRAMA
PANCHAYATH OFFICE, NELLIMATTAM P.O.,
ERNAKULAM DIST-686 693.

R1 BY ADV. SMT. T.B. RAMANI, GOVT. PLEADER.
R4 BY ADV. SRI.M. DINESH, SC, KWA.
R5 BY ADV. SRI.P.B.MOHANKUMAR,SC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/04/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 31271/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF SRO No.1034/93 CONTAINING GO(P) NO.132/93/LAD DT.29.6.93.

EXT.P2 : TRUE COPY OF REPRESENTATION DT.6.11.06 TO THE R5.

EXT.P2(A) : TRUE COPY OF REPRESENTATION DT.20.11.06 TO THE R5.

EXT.P3: TRUE COPY OF LETTER DT.21.11.06 OF PANCHAYATH MEMBER OF WARD NO.6.

EXT.P4 : TRUE COPY OF REPRESENTATION DT.8.11.06 TO THE 2ND AND 3RD RESPONDENTS.

EXT.P5 : TRUE COPY OF PANCHAYAT'S RESOLUTION DT.26.9.06.

EXT.P5(A) : TRUE COPY OF PANCHAYAT'S LETTER DT.3.11.06.

EXT.P6 : TRUE COPY OF PANCHAYAT'S RESOLUTION DT.11.12.06.

EXT.P7 : TRUE COPY OF NEWS PAPER REPORT DT.17.12.06, IN THE HINDU.

EXT.P7(A) : TRUE COPY OF NEWS PAPER REPORT DT.26.12.06, IN THE HINDU.

EXT.P8 : TRUE COPY OF NEWS PAPER REPORT DT.11.1.07, IN MALAYALA MANORAMA

PIUS C. KURIAKOSE, J.

W.P.(C) No. 31271 OF 2006

Dated this the 12th day of April, 2007

JUDGMENT

The 2nd respondent, District Collector through his letter No.6330/2002 dt.09.04.2007 addressed to the Advocate General reported as follows:

"The Hon'ble High Court of Kerala in WPC 21095 of 2006 up held the provision of the Act regarding sand mining that "No sand removal operations within a distance of 500 meters from the bridges or irrigation projects and further, no kollivala, pole scooping or any mechanized method shall be carried out in the removal operations from the river Periyar." In the light of the above direction of the Hon'ble High Court the DLEC held on 10.1.2007 have decided not to allow any new kadavu or to grant any additional loads in the existing kadavus in the river Periyar. No action will be taken by District Administration against the above decision of the DLEC, even though the Local Self Government Institutions may or may not submit their requests or resolutions for sanctioning new kadavus in the river Periyar. They have liberty to pass or forward their decisions to the District Collector. But as a decision has already been taken in the DLEC on 10.01.2007, such requests shall not be entertained."

The prayers sought for in the Writ Petition are for a declaration that the action of the respondents in setting up the proposed new kadavu nearby to the petitioner's Ashram for sand mining operations is without jurisdiction and a writ of mandamus be issued to respondents, not to permit the setting up of the above said proposed new kadavu nearby to the petitioner's ashram for sand mining.

Ext.P5 produced along with IA No.1111 of 2007 is the copy of the resolution of the Panchayat under which the Panchayat requests the District Collector for the establishment of new kadavu near to the ashram of the petitioner. But it is clear that the 3rd respondent-District Level Expert Committee, who is the competent authority has taken any decision against sanctioning of new kadavus. The stand of the District Collector is that the District administration will not take any decision against the action of the 3rd respondent. The Writ Petition will stand disposed of directing respondents not to permit the setting up of the proposed new kadavu for sand mining operations near the petitioner's ashram, till such time as the 3rd respondent-Expert Committee does not vary its present decision.

PIUS C. KURIAKOSE, JUDGE

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